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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,104	08/17/2006	Malcolm Bailey	56618/S307	2460
23363 7590 02/13/2008 CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068				
EXAMINER ROGERS, DAVID A				
ART UNIT 2856		PAPER NUMBER		
MAIL DATE 02/13/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,104

Applicant(s)

BAILEY, MALCOLM

Examiner

DAVID A. ROGERS

Art Unit

2856

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6, 7 and 9-18 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/083)
- Paper No(s)/Mail Date 12/11/06, 1/22/07
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by “Evaluation of the Kirchberg Rolling Slider and SlipAlert Slip Resistance Meters” to Hallas¹.

Hallas discloses that a friction testing apparatus was constructed that is similar to a Kirchberg Rolling Slider from 1997. As seen in figure 2.3 the slider has a body, wheels, and at least one slider on its underside to induce friction between the body and the test surface. A ramp is used as the means to accelerate the body. As the body has a predetermined mass and a predetermined size the final velocity at the end of the ramp will be constant and predetermined.

¹ Hallas is being cited in accordance with MPEP §2124 - *Exception to the Rule That the Critical Reference Date Need Not Antedate the Filing Date*. Hallas discloses the known prior art from 1997 as Kirchberg's sliding resistance testing device, cites a reference to "In situ measurement of sliding friction of floors: study for the optimization of check parameters" to Kirchberg *et al.*, and compares the Kirchberg device to that of the present application. A copy of this citation is not yet available to the examiner, however an attempt to obtain a copy is being made.

With regard to the applicant's phrase the "wherein the dimensions of the at least one slider, the force on the slider and the speed of commencement of the test run are selected such that when the test surface is wet the hydrodynamic critical film thickness developed is in the range of 1 to 3 μm " it is noted that the claimed size and shape does not structurally differentiate the applicant's device from the prior art. See also MPEP §2144.04 citing *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984) and also *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997).

With regard to claim 2 body is in the form of a trolley comprising wheels in contact with the ground. The wheels and the slider will inherently provide directional stability since the claimed device and the device shown in Hallas are identical.

With regard to claim 3 the device shown in Hallas will have two wheels in contact with the ground during testing. The device will also have a slider in contact with the ground.

With regard to claim 4 the ramp has a known length and incline.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hallas.

Hallas teaches a trolley having wheels. However, the wheels are not taught as being locked to a common axle so that they turn simultaneously; i.e., they “improve” directional stability.

Official notice is hereby taken that items with wheels that are joined and locked to a common axle are well known and that the use of such an arrangement on the Kirchberg device would have been an obvious modification in order provide a straight movement of the device that the wheels are mounted.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Hallas in order to provide locked wheels on the Kirchberg device in order to allow the device to move in a straight manner.

Allowable Subject Matter

5. Claims 6, 7, 9-18 are allowed.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID A. ROGERS whose telephone number is (571)272-2205. The examiner can normally be reached on Monday - Friday (0730 - 1600). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on

(571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David A. Rogers/
Examiner, Art Unit 285g